

Add Sections 7984 (Motor Vehicle Fuel Tax Law), 9034 (Use Fuel Tax Law), 30354.6 (Cigarette and Tobacco Products Tax Law), 32390 (Alcoholic Beverage Tax Law), 40168 (Energy Resources Surcharge Law), 41127.8 (Emergency Telephone Users Surcharge Law), 43449 (Hazardous Substances Tax Law), 45610 (Integrated Waste Management Fee Law), , 46465 (Oil Spill Response, Prevention, and Administration Fees Law), 50138.8 (Underground Storage Tank Maintenance Fee Law), 55210 (Fee Collection Procedures Law – exclusive of Water Rights Fee Law), and 60494 (Diesel Fuel Tax Law) to the Revenue and Taxation Code to impose personal liability on corporate officers and other responsible persons of terminated, dissolved, or abandoned partnership, limited liability partnership, corporate, and limited liability company businesses for tax/fee liabilities incurred, under certain conditions.

Source: Excise Taxes and Fees Division

Existing Law

Under the various Special Taxes and Fees programs in the Revenue and Taxation Code (RTC), the Board may collect the tax or fee (tax) from partnerships, corporations, and limited liability companies. There are times when a partner, officer, member, manager, or other person having control or supervision of filing returns or payment of the tax has failed to pay the tax as a result of an intentional, conscious, and voluntary course of action, and the business is terminated, dissolved, or abandoned. In other areas of tax law administered by the Board, such as the Sales and Use Tax Law (RTC §6829), Private Railroad Car Tax (RTC §11533), and Timber Yield Tax (RTC §38574), personal liability for tax, interest, and penalty is imposed on a partner, officer, member, manager, or other person when that person has willfully failed to pay the tax and the business has been dissolved, abandoned, or terminated. There are no comparable provisions in the Special Taxes and Fees programs that are the subject of this proposal.

Under existing law, the Board's Sales and Use Tax Department (SUTD) has been able to utilize Section 6829 to assess personal liability against corporate officers. In April 2002, the SUTD centralized the processing of the investigation of corporate closed-out accounts. Since that time, the responsible section has issued almost 900 assessments for personal liability, valued at over \$56 million. This section has received payments for fiscal year 2002-03 of \$11.2 million, for 2003-04 of \$11.8 million, and for 2004-05 of \$24.9 million. The payments come from various sources, but approximately 20% have been attributed to individuals paying the corporate liability to preempt an assessment.

The authority to assess personal responsibility for a corporate liability was originally authorized for Sales and Use Tax Law by Assembly Bill 384 (Ch. 337,

Stats. 1981) and was extended to Timber Yield Tax in 1985 (Ch. 186) and later to Private Railroad Car Tax in 1987 (Ch. 498). However, there has been no expansion of this measure to the other special taxes and fees programs.

This Proposal

This proposal would allow the Special Taxes programs to investigate and pursue personal liability against responsible corporate officers that have control or supervision of filing returns and willfully failed to pay or cause to be paid the tax or fee.

The purpose of this proposal is to increase compliance and payment of taxes or fees. Currently, the Excise Taxes and Fees Division reports that there are 36 closed-out corporate accounts representing \$44 million in liability. Without the ability to investigate and pursue personal liability, they may have to write off collection of these accounts receivable. Given the historical information from the SUTD relating to its success under Section 6829, and assuming certain accounts will be paid as a preemptive attempt to avoid personal liability, the Excise Tax Section estimates it could collect an additional \$7.92 million each year.

The proposal for Underground Storage Tank (UST) has additional language that would limit personal liability only to those fee payers where the Board establishes that the corporate officer or other responsible person knew or should have known his or her company was responsible for paying the fee. Staff's separate revenue estimate, based on this criterion, indicates that UST collections would increase by \$630,000 a year.

Certain types of businesses are required to register, report, and collect more than one type of tax with the Board. Generally, these businesses have a sales tax permit with the Board for the sale of tangible personal property, and they are also responsible for collection of other taxes related to the products that they sell. For example, micro-brewery restaurants and vineyard specialty stores could have both sales tax and alcoholic beverage tax responsibilities. Businesses that are retailers of tires or televisions and other covered electronic devices would be required to report and collect sales tax and the California Tire Fee or Electronic Waste Recycling Fee. Approximately 20% of the licensed cigarette and tobacco products distributors report and pay the cigarette tax, sales tax, and one or another fuel or environmental tax to the Board. The incidence of sales tax account-holders having additional tax responsibilities has increased because of changes in the types of fees and taxes being collected by the Board and changes that have occurred in certain industries.

The Special Taxes and Fees programs affected by this proposal seek a consistent approach to collections. Currently, a corporate officer investigated for

personal liability or held personally responsible for a sales tax liability may not be held personally responsible for the various Special Taxes and Fees that are the subject of this proposal. The ability to conduct an investigation for personal liability has also been used by the SUTD as leverage in obtaining self-compliance from the corporation. This proposal would make this effective tool available to the Special Taxes and Fees programs.

Additionally, this proposal is being pursued at this time to take full advantage of the recent system enhancements provided by the Revenue Database Consolidation (RDC) in IRIS. RDC was just completed in 2004 for Special Taxes and was undertaken primarily for the purpose of issuing and tracking multiple determinations (duals) on the same account. Unlike the previous accounting system (STARS), IRIS has consolidated the Board's data and information processing, making it easier to identify related accounts.

Section 7984 of the Motor Vehicle Fuel Tax Law is added to read:

7984 (a) Notwithstanding Sections 16306, 16307, 17101, 17158, 17355, 17450, or 17456 of the Corporations Code, upon termination, dissolution, or abandonment of a partnership, a registered or foreign limited liability partnership, a domestic or foreign corporate, or limited liability company business, any partner, officer, member, manager, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of the tax, or who is under a duty to act for the partnership, limited liability partnership, corporation, or limited liability company in complying with any requirement of this part, shall be personally liable for any unpaid taxes and the interest and penalties on those taxes, if the partner, officer, member, manager, or other person willfully fails to pay or to cause to be paid any taxes due from the partnership, limited liability partnership, corporation, or limited liability company pursuant to this part.

(b) The partner, officer, member, manager, or other person shall be liable only for taxes that became due during the period of time he or she had the control, supervision, responsibility, or duty to act for the partnership, limited liability partnership, corporation, or limited liability company described in subdivision (a), plus interest and penalties on those taxes.

(c)(1) It shall be presumed that a partner, officer, member, manager, or other person had such control, supervision, responsibility, and duty to act during the time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company.

(2) This presumption may be controverted by the partner, officer, member, manager, or other person if he or she establishes to the satisfaction of the board that he or she did not have such control, supervision, responsibility, or duty. To controvert this presumption, he or she may provide a statement,

signed by the partner, officer, member, manager, or other person under penalty of perjury, and other documentation which is sufficient to show, as determined by the board, that this presumption has been controverted.

(3) The board may also consider statements, signed under penalty of perjury, by others with personal knowledge of the partner's, officer's, member's, manager's, or other person's duties and scope of responsibility during the period of time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company, in determining if the presumption has been controverted.

(d) For purposes of this section, "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(e) For purposes of this section, "termination" of a partnership, registered or foreign limited liability partnership, domestic or foreign corporate, or limited liability company business includes discontinuance or cessation of business activities.

(f) The sum due for the liability imposed under this section may be collected by the issuance of a notice of determination and collection in the manner provided in Chapter 5 (commencing with Section 7651) and Chapter 6 (commencing with Section 7851).

Section 9034 of the Use Fuel Tax Law is added to read:

9034 (a) Notwithstanding Sections 16306, 16307, 17101, 17158, 17355, 17450, or 17456 of the Corporations Code, upon termination, dissolution, or abandonment of a partnership, a registered or foreign limited liability partnership, a domestic or foreign corporate, or limited liability company business, any partner, officer, member, manager, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of the tax, or who is under a duty to act for the partnership, limited liability partnership, corporation, or limited liability company in complying with any requirement of this part, shall be personally liable for any unpaid taxes and the interest and penalties on those taxes, if the partner, officer, member, manager, or other person willfully fails to pay or to cause to be paid any taxes due from the partnership, limited liability partnership, corporation, or limited liability company pursuant to this part.

(b) The partner, officer, member, manager, or other person shall be liable only for taxes that became due during the period of time he or she had the control, supervision, responsibility, or duty to act for the partnership, limited liability partnership, corporation, or limited liability company described in subdivision (a), plus interest and penalties on those taxes.

(c)(1) It shall be presumed that a partner, officer, member, manager, or other person had such control, supervision, responsibility, and duty to act during the

time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company.

(2) This presumption may be controverted by the partner, officer, member, manager, or other person if he or she establishes to the satisfaction of the board that he or she did not have such control, supervision, responsibility, or duty. To controvert this presumption, he or she may provide a statement, signed by the partner, officer, member, manager, or other person under penalty of perjury, and other documentation which is sufficient to show, as determined by the board, that this presumption has been controverted.

(3) The board may also consider statements, signed under penalty of perjury, by others with personal knowledge of the partner's, officer's, member's, manager's, or other person's duties and scope of responsibility during the period of time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company, in determining if the presumption has been controverted.

(d) For purposes of this section, "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(e) For purposes of this section, "termination" of a partnership, registered or foreign limited liability partnership, domestic or foreign corporate, or limited liability company business includes discontinuance or cessation of business activities.

(f) The sum due for the liability imposed under this section may be collected by the issuance of a notice of determination and collection in the manner provided in Chapter 4 (commencing with Section 8751) and Chapter 5 (commencing with Section 8951).

Section 30354.6 of the Cigarette and Tobacco Products Tax Law is added to read:

30354.6 (a) Notwithstanding Sections 16306, 16307, 17101, 17158, 17355, 17450, or 17456 of the Corporations Code, upon termination, dissolution, or abandonment of a partnership, a registered or foreign limited liability partnership, a domestic or foreign corporate, or limited liability company business, any partner, officer, member, manager, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of the tax, or who is under a duty to act for the partnership, limited liability partnership, corporation, or limited liability company in complying with any requirement of this part, shall be personally liable for any unpaid taxes and the interest and penalties on those taxes, if the partner, officer, member, manager, or other person willfully fails to pay or

to cause to be paid any taxes due from the partnership, limited liability partnership, corporation, or limited liability company pursuant to this part.

(b) The partner, officer, member, manager, or other person shall be liable only for taxes that became due during the period of time he or she had the control, supervision, responsibility, or duty to act for the partnership, limited liability partnership, corporation, or limited liability company described in subdivision (a), plus interest and penalties on those taxes.

(c)(1) It shall be presumed that a partner, officer, member, manager, or other person had such control, supervision, responsibility, and duty to act during the time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company.

(2) This presumption may be controverted by the partner, officer, member, manager, or other person if he or she establishes to the satisfaction of the board that he or she did not have such control, supervision, responsibility, or duty. To controvert this presumption, he or she may provide a statement, signed by the partner, officer, member, manager, or other person under penalty of perjury, and other documentation which is sufficient to show, as determined by the board, that this presumption has been controverted.

(3) The board may also consider statements, signed under penalty of perjury, by others with personal knowledge of the partner's, officer's, member's, manager's, or other person's duties and scope of responsibility during the period of time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company, in determining if the presumption has been controverted.

(d) For purposes of this section, "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(e) For purposes of this section, "termination" of a partnership, registered or foreign limited liability partnership, domestic or foreign corporate, or limited liability company business includes discontinuance or cessation of business activities.

(f) The sum due for the liability imposed under this section may be collected by the issuance of a notice of determination and collection in the manner provided in Chapter 3.5 (commencing with Section 30173) and Chapter 5 (commencing with Section 30301).

Section 32390 of the Alcoholic Beverage Tax Law is added to read:

32390 (a) Notwithstanding Sections 16306, 16307, 17101, 17158, 17355, 17450, or 17456 of the Corporations Code, upon termination, dissolution, or abandonment of a partnership, a registered or foreign limited liability partnership, a domestic or foreign corporate, or limited liability company

business, any partner, officer, member, manager, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of the tax, or who is under a duty to act for the partnership, limited liability partnership, corporation, or limited liability company in complying with any requirement of this part, shall be personally liable for any unpaid taxes and the interest and penalties on those taxes, if the partner, officer, member, manager, or other person willfully fails to pay or to cause to be paid any taxes due from the partnership, limited liability partnership, corporation, or limited liability company pursuant to this part.

(b) The partner, officer, member, manager, or other person shall be liable only for taxes that became due during the period of time he or she had the control, supervision, responsibility, or duty to act for the partnership, limited liability partnership, corporation, or limited liability company described in subdivision (a), plus interest and penalties on those taxes.

(c)(1) It shall be presumed that a partner, officer, member, manager, or other person had such control, supervision, responsibility, and duty to act during the time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company.

(2) This presumption may be controverted by the partner, officer, member, manager, or other person if he or she establishes to the satisfaction of the board that he or she did not have such control, supervision, responsibility, or duty. To controvert this presumption, he or she may provide a statement, signed by the partner, officer, member, manager, or other person under penalty of perjury, and other documentation which is sufficient to show, as determined by the board, that this presumption has been controverted.

(3) The board may also consider statements, signed under penalty of perjury, by others with personal knowledge of the partner's, officer's, member's, manager's, or other person's duties and scope of responsibility during the period of time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company, in determining if the presumption has been controverted.

(d) For purposes of this section, "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(e) For purposes of this section, "termination" of a partnership, registered or foreign limited liability partnership, domestic or foreign corporate, or limited liability company business includes discontinuance or cessation of business activities.

(f) The sum due for the liability imposed under this section may be collected by the issuance of a notice of determination and collection in the manner provided in Chapter 6 (commencing with Section 32251) and Chapter 7 (commencing with Section 32351).

Section 40168 of the Energy Resources Surcharge Law is added to read:

40168 (a) Notwithstanding Sections 16306, 16307, 17101, 17158, 17355, 17450, or 17456 of the Corporations Code, upon termination, dissolution, or abandonment of a partnership, a registered or foreign limited liability partnership, a domestic or foreign corporate, or limited liability company business, any partner, officer, member, manager, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of the surcharge, or who is under a duty to act for the partnership, limited liability partnership, corporation, or limited liability company in complying with any requirement of this part, shall be personally liable for any unpaid surcharge and the interest and penalties on the surcharge, if the partner, officer, member, manager, or other person willfully fails to pay or to cause to be paid any surcharge due from the partnership, limited liability partnership, corporation, or limited liability company pursuant to this part.

(b) The partner, officer, member, manager, or other person shall be liable only for the surcharge that became due during the period of time he or she had the control, supervision, responsibility, or duty to act for the partnership, limited liability partnership, corporation, or limited liability company described in subdivision (a), plus interest and penalties on the surcharge.

(c)(1) It shall be presumed that a partner, officer, member, manager, or other person had such control, supervision, responsibility, and duty to act during the time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company.

(2) This presumption may be controverted by the partner, officer, member, manager, or other person if he or she establishes to the satisfaction of the board that he or she did not have such control, supervision, responsibility, or duty. To controvert this presumption, he or she may provide a statement, signed by the partner, officer, member, manager, or other person under penalty of perjury, and other documentation which is sufficient to show, as determined by the board, that this presumption has been controverted.

(3) The board may also consider statements, signed under penalty of perjury, by others with personal knowledge of the partner's, officer's, member's, manager's, or other person's duties and scope of responsibility during the period of time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company, in determining if the presumption has been controverted.

(d) For purposes of this section, "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(e) For purposes of this section, "termination" of a partnership, registered or foreign limited liability partnership, domestic or foreign corporate, or limited liability company business includes discontinuance or cessation of business activities.

(f) The sum due for the liability imposed under this section may be collected by the issuance of a notice of determination and collection in the manner provided in Chapter 4 (commencing with Section 40051) and Chapter 6 (commencing with Section 40141).

Section 41127.8 of the Emergency Telephone Users Surcharge Law is added to read:

41127.8 (a) Notwithstanding Sections 16306, 16307, 17101, 17158, 17355, 17450, or 17456 of the Corporations Code, upon termination, dissolution, or abandonment of a partnership, a registered or foreign limited liability partnership, a domestic or foreign corporate, or limited liability company business, any partner, officer, member, manager, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of the surcharge, or who is under a duty to act for the partnership, limited liability partnership, corporation, or limited liability company in complying with any requirement of this part, shall be personally liable for any unpaid surcharge and the interest and penalties on the surcharge, if the partner, officer, member, manager, or other person willfully fails to pay or to cause to be paid any surcharge due from the partnership, limited liability partnership, corporation, or limited liability company pursuant to this part.

(b) The partner, officer, member, manager, or other person shall be liable only for the surcharge that became due during the period of time he or she had the control, supervision, responsibility, or duty to act for the partnership, limited liability partnership, corporation, or limited liability company described in subdivision (a), plus interest and penalties on the surcharge.

(c)(1) It shall be presumed that a partner, officer, member, manager, or other person had such control, supervision, responsibility, and duty to act during the time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company.

(2) This presumption may be controverted by the partner, officer, member, manager, or other person if he or she establishes to the satisfaction of the board that he or she did not have such control, supervision, responsibility, or duty. To controvert this presumption, he or she may provide a statement, signed by the partner, officer, member, manager, or other person under penalty of perjury, and other documentation which is sufficient to show, as determined by the board, that this presumption has been controverted.

(3) The board may also consider statements, signed under penalty of perjury, by others with personal knowledge of the partner's, officer's, member's, manager's, or other person's duties and scope of responsibility during the period of time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company, in determining if the presumption has been controverted.

(d) For purposes of this section, "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(e) For purposes of this section, "termination" of a partnership, registered or foreign limited liability partnership, domestic or foreign corporate, or limited liability company business includes discontinuance or cessation of business activities.

(f) The sum due for the liability imposed under this section may be collected by the issuance of a notice of determination and collection in the manner provided in Chapter 4 (commencing with Section 41050) and Chapter 6 (commencing with Section 41115).

Section 43449 of the Hazardous Substances Tax Law is added to read:

43449 (a) Notwithstanding Sections 16306, 16307, 17101, 17158, 17355, 17450, or 17456 of the Corporations Code, upon termination, dissolution, or abandonment of a partnership, a registered or foreign limited liability partnership, a domestic or foreign corporate, or limited liability company business, any partner, officer, member, manager, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of the tax, or who is under a duty to act for the partnership, limited liability partnership, corporation, or limited liability company in complying with any requirement of this part, shall be personally liable for any unpaid taxes and the interest and penalties on those taxes, if the partner, officer, member, manager, or other person willfully fails to pay or to cause to be paid any taxes due from the partnership, limited liability partnership, corporation, or limited liability company pursuant to this part.

(b) The partner, officer, member, manager, or other person shall be liable only for taxes that became due during the period of time he or she had the control, supervision, responsibility, or duty to act for the partnership, limited liability partnership, corporation, or limited liability company described in subdivision (a), plus interest and penalties on those taxes.

(c)(1) It shall be presumed that a partner, officer, member, manager, or other person had such control, supervision, responsibility, and duty to act during the time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company.

(2) This presumption may be controverted by the partner, officer, member, manager, or other person if he or she establishes to the satisfaction of the board that he or she did not have such control, supervision, responsibility, or duty. To controvert this presumption, he or she may provide a statement, signed by the partner, officer, member, manager, or other person under penalty of perjury, and other documentation which is sufficient to show, as determined by the board, that this presumption has been controverted.

(3) The board may also consider statements, signed under penalty of perjury, by others with personal knowledge of the partner's, officer's, member's, manager's, or other person's duties and scope of responsibility during the period of time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company, in determining if the presumption has been controverted.

(d) For purposes of this section, "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(e) For purposes of this section, "termination" of a partnership, registered or foreign limited liability partnership, domestic or foreign corporate, or limited liability company business includes discontinuance or cessation of business activities.

(f) The sum due for the liability imposed under this section may be collected by the issuance of a notice of determination and collection in the manner provided in Chapter 3 (commencing with Section 43151) and Chapter 4 (commencing with Section 43401).

Section 45610 of the Integrated Waste Management Fee Law is added to read:

45610 (a) Notwithstanding Sections 16306, 16307, 17101, 17158, 17355, 17450, or 17456 of the Corporations Code, upon termination, dissolution, or abandonment of a partnership, a registered or foreign limited liability partnership, a domestic or foreign corporate, or limited liability company business, any partner, officer, member, manager, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of the fee, or who is under a duty to act for the partnership, limited liability partnership, corporation, or limited liability company in complying with any requirement of this part, shall be personally liable for any unpaid fees and the interest and penalties on those fees, if the partner, officer, member, manager, or other person willfully fails to pay or to cause to be paid any fees due from the partnership, limited liability partnership, corporation, or limited liability company pursuant to this part.

(b) The partner, officer, member, manager, or other person shall be liable only for fees that became due during the period of time he or she had the control, supervision, responsibility, or duty to act for the partnership, limited liability

partnership, corporation, or limited liability company described in subdivision (a), plus interest and penalties on those fees.

(c)(1) It shall be presumed that a partner, officer, member, manager, or other person had such control, supervision, responsibility, and duty to act during the time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company.

(2) This presumption may be controverted by the partner, officer, member, manager, or other person if he or she establishes to the satisfaction of the board that he or she did not have such control, supervision, responsibility, or duty. To controvert this presumption, he or she may provide a statement, signed by the partner, officer, member, manager, or other person under penalty of perjury, and other documentation which is sufficient to show, as determined by the board, that this presumption has been controverted.

(3) The board may also consider statements, signed under penalty of perjury, by others with personal knowledge of the partner's, officer's, member's, manager's, or other person's duties and scope of responsibility during the period of time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company, in determining if the presumption has been controverted.

(d) For purposes of this section, "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(e) For purposes of this section, "termination" of a partnership, registered or foreign limited liability partnership, domestic or foreign corporate, or limited liability company business includes discontinuance or cessation of business activities.

(f) The sum due for the liability imposed under this section may be collected by the issuance of a notice of determination and collection in the manner provided in Chapter 3 (commencing with Section 45151) and Chapter 4 (commencing with Section 45401).

Section 46465 of the Oil Spill Response, Prevention, and Administration Fees Law is added to read:

46465 (a) Notwithstanding Sections 16306, 16307, 17101, 17158, 17355, 17450, or 17456 of the Corporations Code, upon termination, dissolution, or abandonment of a partnership, a registered or foreign limited liability partnership, a domestic or foreign corporate, or limited liability company business, any partner, officer, member, manager, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of the fee, or who is under a duty to act for the partnership, limited liability partnership, corporation, or limited liability

company in complying with any requirement of this part, shall be personally liable for any unpaid fees and the interest and penalties on those fees, if the partner, officer, member, manager, or other person willfully fails to pay or to cause to be paid any fees due from the partnership, limited liability partnership, corporation, or limited liability company pursuant to this part.

(b) The partner, officer, member, manager, or other person shall be liable only for fees that became due during the period of time he or she had the control, supervision, responsibility, or duty to act for the partnership, limited liability partnership, corporation, or limited liability company described in subdivision (a), plus interest and penalties on those fees.

(c)(1) It shall be presumed that a partner, officer, member, manager, or other person had such control, supervision, responsibility, and duty to act during the time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company.

(2) This presumption may be controverted by the partner, officer, member, manager, or other person if he or she establishes to the satisfaction of the board that he or she did not have such control, supervision, responsibility, or duty. To controvert this presumption, he or she may provide a statement, signed by the partner, officer, member, manager, or other person under penalty of perjury, and other documentation which is sufficient to show, as determined by the board, that this presumption has been controverted.

(3) The board may also consider statements, signed under penalty of perjury, by others with personal knowledge of the partner's, officer's, member's, manager's, or other person's duties and scope of responsibility during the period of time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company, in determining if the presumption has been controverted.

(d) For purposes of this section, "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(e) For purposes of this section, "termination" of a partnership, registered or foreign limited liability partnership, domestic or foreign corporate, or limited liability company business includes discontinuance or cessation of business activities.

(f) The sum due for the liability imposed under this section may be collected by the issuance of a notice of determination and collection in the manner provided in Chapter 3 (commencing with Section 46151) and Chapter 4 (commencing with Section 46401).

Section 50138.8 of the Underground Storage Tank Maintenance Fee Law is added to read:

50138.8. (a) Notwithstanding Sections 16306, 16307, 17101, 17158, 17355, 17450, or 17456 of the Corporations Code, upon termination, dissolution, or abandonment of a partnership, a registered or foreign limited liability partnership, a domestic or foreign corporate, or limited liability company business, any partner, officer, member, manager, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of the fee, or who is under a duty to act for the partnership, limited liability partnership, corporation, or limited liability company in complying with any requirement of this part, shall be personally liable for any unpaid fees and the interest and penalties on those fees, if the partner, officer, member, manager, or other person willfully fails to pay or to cause to be paid any fees due from the partnership, limited liability partnership, corporation, or limited liability company pursuant to this part.

(b) The partner, officer, member, manager, or other person shall be liable only for fees that became due during the period of time he or she had the control, supervision, responsibility, or duty to act for the partnership, limited liability partnership, corporation, or limited liability company described in subdivision (a), plus interest and penalties on those fees.

(c)(1) It shall be presumed that a partner, officer, member, manager, or other person had such control, supervision, responsibility, and duty to act during the time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company.

(2) This presumption may be controverted by the partner, officer, member, manager, or other person if he or she establishes to the satisfaction of the board that he or she did not have such control, supervision, responsibility, or duty. To controvert this presumption, he or she may provide a statement, signed by the partner, officer, member, manager, or other person under penalty of perjury, and other documentation which is sufficient to show, as determined by the board, that this presumption has been controverted.

(3) The board may also consider statements, signed under penalty of perjury, by others with personal knowledge of the partner's, officer's, member's, manager's, or other person's duties and scope of responsibility during the period of time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company, in determining if the presumption has been controverted.

(d) Personal liability may be imposed pursuant to this section only if the board establishes that the partner, officer, member, manager, or other person knew or should have known that the partnership, limited liability partnership, corporation, or limited liability company was liable for the fee and failed to register or pay the fee after knowing that the fee was due.

(e) For purposes of this section, "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(f) For purposes of this section, "termination" of a partnership, registered or foreign limited liability partnership, domestic or foreign corporate, or limited liability company business includes discontinuance or cessation of business activities.

(g) The sum due for the liability imposed under this section may be collected by the issuance of a notice of determination and collection in the manner provided in Chapter 3 (commencing with Section 50109) and Chapter 4 (commencing with Section 50121).

Section 55011 of the Fee Collection Procedures Law is added to read:

55011. The fee imposed pursuant to Section 1525 and 1528 of Chapter 8 of Part 2 of Division 2 and Section 13160.1 of Chapter 3 of Division 7 of the Water Code shall be administered and collected by the Board in accordance with this part, except that sections 55185 through 55185.5 (pertaining to successor liability) and section 55210 (pertaining to liability of corporate officers and other persons) shall not apply to fees administered and collected by the Board pursuant to this section.

Section 55210 of the Fee Collection Procedures Law is added to read:

55210 (a) Notwithstanding Sections 16306, 16307, 17101, 17158, 17355, 17450, or 17456 of the Corporations Code, upon termination, dissolution, or abandonment of a partnership, a registered or foreign limited liability partnership, a domestic or foreign corporate, or limited liability company business, any partner, officer, member, manager, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of the fee, or who is under a duty to act for the partnership, limited liability partnership, corporation, or limited liability company in complying with any requirement of this part, shall be personally liable for any unpaid fees and the interest and penalties on those fees, if the partner, officer, member, manager, or other person willfully fails to pay or to cause to be paid any fees due from the partnership, limited liability partnership, corporation, or limited liability company pursuant to this part.

(b) The partner, officer, member, manager, or other person shall be liable only for fees that became due during the period of time he or she had the control, supervision, responsibility, or duty to act for the partnership, limited liability partnership, corporation, or limited liability company described in subdivision (a), plus interest and penalties on those fees.

(c)(1) It shall be presumed that a partner, officer, member, manager, or other person had such control, supervision, responsibility, and duty to act during the time he or she was a partner, officer, member, manager, or other person

acting for the partnership, limited liability partnership, corporation, or limited liability company.

(2) This presumption may be controverted by the partner, officer, member, manager, or other person if he or she establishes to the satisfaction of the board that he or she did not have such control, supervision, responsibility, or duty. To controvert this presumption, he or she may provide a statement, signed by the partner, officer, member, manager, or other person under penalty of perjury, and other documentation which is sufficient to show, as determined by the board, that this presumption has been controverted.

(3) The board may also consider statements, signed under penalty of perjury, by others with personal knowledge of the partner's, officer's, member's, manager's, or other person's duties and scope of responsibility during the period of time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company, in determining if the presumption has been controverted.

(d) For purposes of this section, "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(e) For purposes of this section, "termination" of a partnership, registered or foreign limited liability partnership, domestic or foreign corporate, or limited liability company business includes discontinuance or cessation of business activities.

(f) The sum due for the liability imposed under this section may be collected by the issuance of a notice of determination and collection in the manner provided in Chapter 3 (commencing with Section 55040) and Chapter 4 (commencing with Section 55121).

Section 60494 of the Diesel Fuel Tax Law is added to read:

60494 (a) Notwithstanding Sections 16306, 16307, 17101, 17158, 17355, 17450, or 17456 of the Corporations Code, upon termination, dissolution, or abandonment of a partnership, a registered or foreign limited liability partnership, a domestic or foreign corporate, or limited liability company business, any partner, officer, member, manager, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of the tax, or who is under a duty to act for the partnership, limited liability partnership, corporation, or limited liability company in complying with any requirement of this part, shall be personally liable for any unpaid taxes and the interest and penalties on those taxes, if the partner, officer, member, manager, or other person willfully fails to pay or to cause to be paid any taxes due from the partnership, limited liability partnership, corporation, or limited liability company pursuant to this part.

(b) The partner, officer, member, manager, or other person shall be liable only for taxes that became due during the period of time he or she had the control, supervision, responsibility, or duty to act for the partnership, limited liability partnership, corporation, or limited liability company described in subdivision (a), plus interest and penalties on those taxes.

(c)(1) It shall be presumed that a partner, officer, member, manager, or other person had such control, supervision, responsibility, and duty to act during the time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company.

(2) This presumption may be controverted by the partner, officer, member, manager, or other person if he or she establishes to the satisfaction of the board that he or she did not have such control, supervision, responsibility, or duty. To controvert this presumption, he or she may provide a statement, signed by the partner, officer, member, manager, or other person under penalty of perjury, and other documentation which is sufficient to show, as determined by the board, that this presumption has been controverted.

(3) The board may also consider statements, signed under penalty of perjury, by others with personal knowledge of the partner's, officer's, member's, manager's, or other person's duties and scope of responsibility during the period of time he or she was a partner, officer, member, manager, or other person acting for the partnership, limited liability partnership, corporation, or limited liability company, in determining if the presumption has been controverted.

(d) For purposes of this section, "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(e) For purposes of this section, "termination" of a partnership, registered or foreign limited liability partnership, domestic or foreign corporate, or limited liability company business includes discontinuance or cessation of business activities.

(f) The sum due for the liability imposed under this section may be collected by the issuance of a notice of determination and collection in the manner provided in Chapter 6 (commencing with Section 60201) and Chapter 7 (commencing with Section 60401).